

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

MARY E. MANUEL,

Plaintiff,

vs.

DAYTON CITY SCHOOL DISTRICT  
BOARD OF EDUCATION, et al.,

Defendants.

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Case No. 3:05CV309

JUDGE WALTER HERBERT RICE

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DECISION AND ENTRY OVERRULING DEFENDANTS' MOTION FOR  
JUDGMENT ON THE PLEADINGS (DOC. #10)

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The captioned Motion is overruled, given the presence of potential factual issues, without prejudice to renewal in the form of a properly documented Motion for Summary Judgment on the Plaintiff's first cause of action, setting forth the claim of sexual harassment in violation of federal and state law, and on the Plaintiff's fourth cause of action, setting forth a claim of negligent hiring and retention, when the factual issues, or lack of same, may be thoroughly reviewed, as well as the issue of the legal significance, if any, of the fact that Plaintiff's Complaint sets forth certain facts not contained in the charge of discrimination filed with the Ohio Civil Rights Commission on August 30, 2004, and without prejudice to renewal in the form of a motion to dismiss for failure to state a claim upon

which relief can be granted, pursuant to Fed. R. Civ. P. 12(b)(6), by which the issue of the relevant statute of limitations on Plaintiff's second and third causes of action, setting forth claims of assault and battery and intentional infliction of emotional distress, may be addressed, PROVIDED THAT, within 14 days from date, Plaintiff files a verified Amended Complaint, subject to the strictures of Fed. R. Civ. P. 11, setting forth her version of the events of July 14, 2004, not those of her attorney. The failure to file such an Amended Complaint, within the time period set forth above, will result in this Court's reconsideration of the decision rendered herein. Following the filing of the Amended Complaint, a telephone conference call will be held to establish dates and procedures, leading to the resolution of this litigation.

September 30, 2007

/s/ Walter Herbert Rice

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WALTER HERBERT RICE  
UNITED STATES DISTRICT JUDGE

Copies to:

Counsel for Record